

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

RUBY STREETER,

Plaintiff,

v.

OFFICE OF DOUGLAS BURGESS, LLC., et al.,

Defendant.

Case No.: 1:07-cv-97-WKW

MOTION TO VACATE
ORDER OF MEDIATION

COMES NOW, the Plaintiff, by and through her undersigned counsel and would state to this Honorable Court that mediation at this point, has no chance of effecting a satisfactory resolution to the above matter. In support, the Plaintiff through counsel would proffer as follows:

1. The deposition of the out-of-state Defendant was coordinated with counsel and properly noticed on October 3, 2007. Said deposition was to occur in the Defendant's hometown of Rochester, New York on October 12, 2007.

2. The Defendant, through counsel, contacted counsel for the Plaintiff after hours on October 10, 2007 and informed counsel that the Defendant would not be present for said deposition. (see Exhibit 1).

3. At the time the parties jointly requested an order of mediation, the Plaintiff believed she would have the opportunity to depose the Defendant. Due to the Defendant's actions, this will not be possible and therefore mediation has no chance of success.

WHEREFORE, the Plaintiff respectfully prays this Court to vacate its' order of mediation to allow the parties to continue discovery in this matter.

Certificate of Service

I hereby certify that I have served the Notice of Appearance upon counsels for the Plaintiff, via US Mail, postage prepaid, this the 11th day of October 2007, to the following address:

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October 10, 2007

Gary W. Stout
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Sent via facsimile 334-393-0026, e-mail and regular mail

RE: Ruby Streeter v Office of Douglas R. Burgess, LLC

Dear Gary:

Please cancel your travel plans to New York. We are in the process of putting together our second Offer of Judgment. The offer will abrogate the need for you to depose Mr. Burgess on October 12, 2007. I am sending this letter to you pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and will file a Motion for Protective Order if necessary.

I look forward to hearing from you.

Sincerely yours,



W. McCollum Halcomb
FOR THE FIRM

